

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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In re FLINT WATER CASES

Civil Action No. 5:16-cv-10444-JEL-  
MKM (consolidated)

Hon. Judith E. Levy  
Mag. Mona K. Majzoub

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**CLASS PLAINTIFFS' MOTION FOR ISSUANCE OF LETTER  
ROGATORY FOR INTERNATIONAL JUDICIAL ASSISTANCE  
IN TAKING DEPOSITION IN FRANCE**

Class Plaintiffs, by and through counsel, respectfully request this Court to sign a letter rogatory so that Class Plaintiffs may obtain judicial assistance from the relevant French court to take the deposition of Mr. Laurent Obadia in France, pursuant to the provisions of the Hague Evidence Convention, the Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, and as grounds would show:

1. Class Plaintiffs wish to take the deposition of Laurent Obadia, who counsel has indicated will not be a voluntary witness, for use at the trial of this cause and, to that end, need the assistance of the French courts to compel Mr. Obadia to sit for deposition.

2. As outlined in the Hague Evidence Convention, the Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, this Court may sign a letter rogatory seeking international judicial assistance from the French courts in compelling a witness to sit for deposition in France.

3. Class Plaintiffs have attached hereto a proposed Letter Rogatory prepared pursuant to the Model recommended for use in applying the Convention on the Taking of Evidence Abroad in Civil or Commercial Matters. The proposed Letter Rogatory is provided in English and in French.

WHEREFORE, Class Plaintiffs respectfully request this Court issue the attached Letter Rogatory, in both French and English versions, to the French competent authority.

**CLASS PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF  
MOTION FOR ISSUANCE OF LETTER ROGATORY**

Class Plaintiffs, by and through counsel, respectfully request this Court to issue a letter rogatory to obtain international judicial assistance to the French competent authority so that Class Plaintiffs may take the deposition of Mr. Laurent Obadia in France, pursuant to the provisions of the Hague Evidence Convention, the Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, Oct. 7, 1972, 23 U.S.T. 2555; 28 U.S.C. § 1781; *see also* Fed. R. Civ. P. 28(b) (permitting federal courts to issue letters rogatory to foreign countries). Class Plaintiffs' proposed Letter Rogatory regarding Mr. Obadia and exhibits thereto are attached as Exhibit 1. The letter seeks assistance from the appropriate judicial authorities in France to facilitate the gathering of testimonial evidence from Mr. Obadia.

Laurent Obadia is a communications executive with Veolia Environnement S.A. ("Veolia S.A."), the parent company of Defendants Veolia North America, LLC, Veolia North America, Inc., and Veolia Water North America Operating Services, LLC. Mr. Obadia is a key witness because he played a central role from Paris in coordinating Veolia's media campaign to spread misinformation in order to shift blame publicly for its role in causing the Flint water crisis. Class Plaintiffs reached out to counsel for Veolia S.A. and requested to depose Mr. Obadia. Counsel for Veolia S.A. refused. Accordingly, Class Plaintiffs respectfully request the Court issue the attached Letter Rogatory to the appropriate judicial authority in France.

Both France and the United States are signatories to the Hague Convention, and therefore a court in the United States is authorized to issue letters rogatory to the designated authority in France. *See* Convention on the Taking of Evidence Abroad in Civil or Commercial Matters art. 1, Oct. 7, 1972, 23 U.S.T. 2555; 28 U.S.C. § 1781; *see also* Fed. R. Civ. P. 28(b); *Société Nationale Industrielle Aérospatiale v. U.S. Dist. Ct. for the S. Dist. of Iowa*, 482 U.S. 522, 533 (1987); *United States v. Reagan*, 453 F.2d 165, 172 (6th Cir. 1971) (recognizing court’s inherent authority to issue letters rogatory).

A liberal standard governs a motion for a letter rogatory, and “Convention procedures are available whenever they will facilitate the gathering of evidence by the means authorized in the Convention.” *Aérospatiale*, 482 U.S. at 541. Courts considering a letter rogatory “apply the discovery principles contained in Rule 26,” and consider “whether the movant makes a reasonable showing that the evidence sought may be material or may lead to the discovery of material evidence, . . . and other arguments as to breadth, relevance, and the availability of the information sought from other sources.” *Lantheus Med. Imaging, Inc. v. Zurich Am. Ins. Co.*, 841 F. Supp. 2d 769, 776 (S.D.N.Y. 2012) (internal quotation marks, alteration, and citation omitted); *see also* 8 Richard L. Marcus, *Federal Practice and Procedure* § 2005.1 (3d ed. 2019) (“A court should make use of the Convention procedures whenever it is determined on a case-by-case basis that their use will facilitate discovery.”).

In conducting this inquiry, courts “will not ordinarily weigh the evidence to be elicited by deposition and will not determine whether the witness will be able to give the anticipated testimony.” *Brake Parts, Inc. v. Lewis*, Civil Action No. 09-132-KSF, 2009 WL 1939039, at \*2 (E.D. Ky. July 6, 2009); *In re Urethane Antitrust Litig.*, 267 F.R.D. 361, 364 (D. Kan. 2010) (same). Further, “some good reason must be shown by the opposing party for a court to deny an application for a letter rogatory.” *Brake Parts*, 2009 WL 1939039, at \*2.

Courts regularly grant motions to issue letters rogatory where, as here, the moving party seeks relevant evidence from a nonparty in a foreign jurisdiction who will not voluntarily submit to discovery. *See, e.g., id.* at \*2; *Equal Emp’t Opportunity Comm’n v. Stein World, LLC*, No. 06-2478 M/P, 2007 WL 9706311, at \*2 (W.D. Tenn. June 14, 2007); *In re Urethane*, 267 F.R.D. at 364 (“Resort to using the procedures of the Hague Convention is particularly appropriate when, as here, a litigant seeks to depose a foreign non-party who is not subject to the court’s jurisdiction.”).

As detailed in Class Plaintiffs’ one-page submission to the Court on March 6, 2020, documents produced to date indicate that Mr. Obadia played a key role in Veolia’s media campaign surrounding the Flint water crisis. He appears on nearly 500 documents produced by the Veolia Defendants and on 80 additional documents withheld as privileged. The attached Letter Rogatory also explains Mr. Obadia’s relevance to this case, and sets forth the process by which Class Plaintiffs intend to

obtain evidence from Mr. Obadia. Accordingly, Class Plaintiffs respectfully request that the Court grant this motion and issue the attached Letter Rogatory to the appropriate French authority.

Dated: March 12, 2020

Respectfully submitted,

/s/ Theodore J. Leopold

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**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing instrument was filed with the U.S. District Court through the ECF filing system and that all parties to the above case were served via the ECF filing system on March 12, 2020.

Dated: March 12, 2020

/s/ Jessica B. Weiner

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